

**United States Bankruptcy Court  
Western District of Pennsylvania**

**Changes to Chapter 13 Procedures  
and  
New Administrative Orders Concerning Chapter 13 Cases**

**Effective 10/17/05**

**Chapter 13 Procedures #3 and #9**

Chapter 13 Procedures #3 and #9 have been revised and should be reviewed in their entirety.

**Chapter 13 Procedures #14**

Chapter 13 Procedure #14, Sale of Property Without Publication, is a new procedure.

**Administrative Orders Concerning Chapter 13 Cases**

Two administrative orders concerning Chapter 13 cases are effective on October 17, 2005: (1) Administrative Order #2005-1, Administrative Order Governing Chapter 13 Confirmation Hearings, and (2) Administrative Order #2005-2, Administrative Order Governing Payments to Personal Property Lessors and Secured Creditors, Including Pre-Confirmation Adequate Protection Payments.

*For your convenience:  
The procedures have been reprinted on the following pages.*

**Chapter 13 Procedures**  
**PROCEDURE #3 - FEE APPLICATIONS IN CHAPTER 13 CASES**

For Chapter 13 cases filed from and after October 17, 2005, the maximum fee for Chapter 13 cases is presumed to be \$2500. In instances where the fee charged by counsel is equal to but not more than, or is less than, \$2500, no fee petition is required to be filed by counsel. The maximum fee may be adjusted by the Court periodically. Whenever debtor's counsel fees exceed the \$2500 limit (plus filing fees), the Court will require a fee application in accordance with the Court Procedures Manual. The \$2500 maximum fee includes any retainer received, and is exclusive of allowable and reasonable expenses incurred by counsel.

Counsel fees paid through the Chapter 13 plan shall be treated as professional fees to be paid in level two of the sequence of plan payments at a monthly rate of \$200 or one-twelfth of the total fee, whichever is greater, unless otherwise ordered by the Court.

The \$2500 limit contemplates that the attorney shall advise and represent the debtor(s) in a manner consistent with professional standards. The limit contemplates that the debtor(s) will be interviewed by an attorney, that accurate and complete schedules statements of financial affairs, and related documents will be prepared, that the debtor(s) will be briefed on the Chapter 13 process, that all documents will be explained, and that the attorney will file a Chapter 13 plan that meets with the requirements of Local Form No. 10 and that is capable of confirmation.

The fee also contemplates that the counsel will attend the first Meeting of Creditors, all hearings, and will remain counsel of record until the case is either completed or dismissed, unless the Court has issued an order discharging the attorney as counsel of record.

Counsel is expected to file all motions and objections contemplated in the confirmed plan in a timely fashion. Counsel is also expected to complete representation without additional charge to the debtor(s) for the duration of the Chapter 13 case.

Counsel shall enter into a written fee agreement, which may provide for future fees in the event of future complications. To the extent those fees exceed \$2500 total, the attorney must still file a fee application.

Additional fees may be paid through the Chapter 13 plan if either (a) the Chapter 13 plan, as confirmed, contemplated such fees without decreasing the percentage or amount to be paid to other creditors through the plan and proper application for allowance and payment is filed and approved, or (b) in instances where the additional fees are not contemplated in the plan, the plan is amended within 10 days after the application for fees is allowed and such fees are paid from resources without decreasing the percentage or amount to be paid to other creditors through the plan.

Additional services provided by the debtor's counsel that serve as the basis of a supplemental fee petition may provide a benefit to the estate. In such cases the fee application must specify the benefit that the estate received and whether the unsecured creditors would receive a lower dividend under the existing plan if the fee application were granted and the fees were paid by the trustee from debtor's plan payments. Upon debtor's request, the court may determine that the benefit to the estate warrants a diminution in the dividend paid to unsecured creditors and that an

amendment to the plan is not necessary.

Nothing in this rule shall preclude additional fees being awarded by the court after the filing of a fee application.

**Chapter 13 Procedures**  
**PROCEDURE #9 - NOTICE OF MONTHLY PAYMENT CHANGES**

All notices of postpetition monthly payment changes must be served on the debtor, debtor's counsel and the Trustee. This applies not only to the mortgage changes but to any monthly payment currently being paid by the Trustee. Service of such a notice shall not be construed as a violation of the automatic stay.

The proposed order accompanying any motion or pleading that requests an increase in a periodic payment shall set a 15-day deadline for filing an amended plan. The Trustee will not implement and the court will not enforce any default order without the affirmative consent of the Trustee in writing.

The debtor's counsel (or debtor if pro se) will be responsible for proposing an amended plan including the increased monthly payment if the monthly payment change results in the under-funding of the plan.

Any amended plan containing the changed payment shall include the following statement: "The new postpetition monthly payment payable to \_\_\_\_\_ is effective \_\_\_\_\_, per the escrow notice dated \_\_\_\_\_."

In the event that the monthly payment change does not result in the under-funding of the plan, debtor's counsel (or debtor if pro se) must file a declaration that he has reviewed the existing plan, recomputed the plan payment, and finds that the existing payment is sufficient to fund the plan even with the new debt added. The declaration filed to indicate that the plan remains adequately funded to pay the new postpetition monthly payment shall include the following statement: "The new postpetition monthly payment payable to \_\_\_\_\_ is \$\_\_\_\_\_, effective \_\_\_\_\_, per the escrow notice dated \_\_\_\_\_."

**Chapter 13 Procedures**  
**PROCEDURE #14 - SALE OF PROPERTY WITHOUT PUBLICATION**

The debtor in a Chapter 13 case may waive the publication requirement of General Court Procedure #3 F. 2., and a private sale is permitted when all or a portion of the funds received by the debtor for the sale or refinancing of real property is designated to pay one-hundred percent (100%) of the amount owed to creditors with allowed claims.

A stipulation signed by debtor's counsel and the Chapter 13 trustee to sell property without publication shall be served on all parties in interest including the creditors and lien holders.